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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 ARACELY MUNIZ,

10 Plaintiff,

11 vs.

12 UNITED STATES OF AMERICA;

13 Defendants.
14

COMPLAINT
(FEDERAL TORT CLAIMS ACT)

Case No.

15 **INTRODUCTION**

16 COMES NOW Plaintiff, ARACELY MUNIZ, by and through her attorney, MARK G.
17 HENNESS, ESQ., of HENNESS & HAIGHT, who is duly authorized to and admitted to practice
18 in the Federal Court of the Southern District of Nevada, and for her causes of action against
19 Defendant, said causes of action for damages are at all times relevant herein as hereinafter alleged
20 in this Complaint are based upon the negligent or wrongful acts or omissions of a Federal
21 Employee within the purview of the "Federal Tort Claims", to wit, MICHAEL THOMAS
22 BUTCH, who at all times mentioned herein was an employee of the United Postal Service and of
23 the United States Government and at the time of the incident on July 5, 2016, was acting within
24 the course and scope of his office or employment as an employee of the United Postal Service and
25 of the United States Government.
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JURISDICTION AND VENUE

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2 1. This Federal District Court has jurisdiction over this Complaint under the Federal
3 Tort Claims Act of August 2, 1946, 60 Stat 843; 28 U.S.C. §§ 1346(b), 2671 et seq. The basis of
4 this Complaint is predicated on a motor vehicle accident occurring on July 5, 2016. Federal
5 jurisdiction and venue in the District of Nevada is appropriate because the accident, forming the
6 basis of this Complaint and all counts and causes of action and money damages herein, occurred
7 within this District and both the Plaintiff and United Postal Service and United States Government
8 employee, MICHAEL THOMAS BUTCH, reside within this District and he was acting in the
9 course and scope of his duties, orders, obligations, office and/or employment as an employee of
10 the United Postal Service and of the United States Government as alleged herein and as such, the
11 Defendant is legally and/or negligently responsible for the injuries and money damages as alleged
12 in this Complaint which are alleged to have been caused by the wrongful acts and /or omissions,
13 and/or negligence of the Defendant.
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16 2. The Plaintiff, ARACELY MUNIZ ("Plaintiff"), brings this cause of action against
17 the Defendant, the UNITED STATES GOVERNMENT, for damages arising out this action
18 which is based on the Federal Tort Claims Act of August 2, 1946, 28 U.S.C. §1346(b), 2671 et
19 seq., and by this reference said federal statutes are incorporated herein and through set forth in full.
20

21 3. Plaintiff properly presented her administrative claim to the appropriate federal
22 agency of the UNITED STATES POSTAL SERVICE and the Defendant, UNITED STATES
23 GOVERNMENT, in compliance with Federal Law, for money damages for personal injuries
24 Plaintiff sustained as a proximate result of the accident as herein described and for which this
25 action is commenced.
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1 4. The Plaintiff's claim was formally denied by the appropriate federal agency
2 through a response from ROSA M. JORDAN, Accounting Specialist, Sr. of the United States
3 Postal Service, denying her claim alleging negligence under the provisions of the Federal Tort
4 Claims Act, 28 U.S.C. §1346(b), 2671-2680.
5

6 **CAUSE OF ACTION**

7 5. Despite the Certification of Scope and Employment by the true and lawful legal
8 representative of the United States of America regarding the status of MICHAEL THOMAS
9 BUTCH, regarding the date and incident of which this complaint arises from, Plaintiff's
10 administrative claim, filed with the United States Postal Service was subsequently denied. This
11 Complaint follows therefrom, and timely filed in compliance with Federal Law and the Federal
12 Torts Claim Act referred to herein, alleges as follows:
13

14 6. That at all times relevant to these proceedings, Plaintiff, ARACELY MUNIZ
15 ("Plaintiff"), was a resident of the County of Clark, State of Nevada.
16

17 7. Plaintiff is informed, believes and thereon alleges that at all times relevant to these
18 proceedings, MICHAEL THOMAS BUTCH, was and is a resident of the County of Clark, State
19 of Nevada.

20 8. At all times mentioned herein, MICHAEL THOMAS BUTCH was an employee
21 of each and every other prior employee, and who acting within the course and scope of his
22 employment.
23

24 9. That on or about July 5, 2016, in Clark County, Nevada, Plaintiff was operating a
25 2016 Hyundai Elantra and was traveling northbound on Bedford Road.

26 10. At said time and place, MICHAEL THOMAS BUTCH, was the employee of the
27 Defendant United States Government, and acting within the course and scope of said employment,
28

1 was operating a 1992 GMC marked United States Postal Service Vehicle, entered the northbound
2 travel lane of Bedford Road after having been in a parked position at the curb delivering mail.

3 11. At said date and time, MICHAEL THOMAS BUTCH, so negligently, carelessly
4 and recklessly failed to yield the right-of-way to Plaintiff's vehicle, when MICHAEL THOMAS
5 BUTCH entered the northbound travel lane of Bedford Road, colliding with the passenger's side
6 of Plaintiff's vehicle, thereby causing Plaintiff to sustain serious injuries and damages.
7

8 12. That since MICHAEL THOMAS BUTCH's actions were the proximate cause of
9 the accident involving the Plaintiff, and when he caused the accident, he was acting within the
10 course and scope of his duties as an employee of the United States of America, the United States
11 of America is responsible for the injuries sustained by Plaintiff.
12

13 13. That as a direct and proximate result of the negligence, carelessness and
14 recklessness of the Defendant, and its employee, Plaintiff suffered injuries to her neck,
15 shoulders and back, among others, all or some of which conditions may be permanent or
16 disabling in nature, causing general damage in an amount to be determined at trial, but which
17 exceeds \$10,000.
18

19 14. That as a further and direct proximate cause of the negligence of Defendant, and its
20 employee, Plaintiff has suffered and continues to suffer a significant deterioration in Plaintiff's
21 enjoyment of life and lifestyle;
22

23 15. That Plaintiff has had to retain the services of an attorney to prosecute this
24 action and is entitled to reasonable attorneys' fees and costs of suit incurred herein.
25

26 WHEREFORE, Plaintiff, expressly reserving the right to amend her Complaint at the
27 time of trial of the actions herein to include all items of damages not yet ascertained, and based
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1 on Federal Tort Claims Act of August 2, 1946, 60 Stat 843; 28 U.S.C. §§ 1346(b), 2671 et seq.,
2 demands judgment against Defendant UNITED STATES OF AMERICA as follows:

- 3 1. General damages in an amount in excess of \$10,000;
- 4 2. Damages for costs of medical care and treatment and costs incidental therein,
5 when the same have been fully ascertained;
- 6 3. For reasonable attorneys' fees and costs of suit incurred herein; and,
- 7 4. For such other and further relief as the Court may deem proper.

8 DATED this 4th day of April, 2018.

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10 HENNESS & HAIGHT
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